



UNITED STATES PATENT AND TRADEMARK OFFICE

cd

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,545	01/18/2002	Yasuhiro Terashima	1684/44903DV	7871

23911 7590 03/19/2004
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

ROSENBAUM, IRENE CUDA

ART UNIT	PAPER NUMBER
----------	--------------

3726

DATE MAILED: 03/19/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,545

Applicant(s)

TERASHIMA ET AL.

Examiner

Irene Cuda-Rosenbaum

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by EPO 239442 for the reasons set forth in paper no. 5.

Epo '442 teaches the method of assembling a heat resistant assembly including applying mortar to the tube assembly , including the interlocking mechanism and the heat resistant block, including the indentations, separately (the claim does not say that the mortar applied to the tube must be done prior to assembly)

And, assembling the tube assembly and the heat resistant block together, wherein the indentations on the block which have been filled with mortar are brought into contact with the interlocking mechanism on the tube assembly, so that the mortar causes the two surfaces to adhere to one another. See the attached translation of the reference which includes labeling of the parts as claimed .The translation describes the material 14, which is in contact with all the claimed parts , as the as an adhering layer of refractory material (mortar). Claim 8 of EPO'442 clearly states that "all the free spaces between the walls (12) of the furnace , the hook elements (10) and the refractory components (160 are filled with the bonding product.

Art Unit: 3726

Applicant has not claimed that the mortar is applied to the tubes and their projections separately from the assembly step. Therefore, the claim is read to include application of mortar to the tube which occurs during the assembly step.

Allowable Subject Matter

Claim 12 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach the entire combination of limitations in claim 12, including the controlling step, and in this claim the mortar is read as applied to the fib separate from the assembly step because the use of the removing the excess mortar step would require such.

Response to Arguments

Applicant's arguments filed 12/23/03 have been fully considered but they are not persuasive. Applicant argues that EPO 442 is not a 102 since there is no translation. However, an "X" action on a search report, absent a translation or a discussion of the references by applicant, is considered a 102/103 by the office. A translation has been obtained which verifies the rejection is accurate. The remainder of applicant's arguments are addressed in the above rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3726

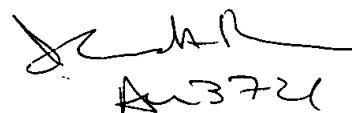
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Cuda-Rosenbaum whose telephone number is 703-308-1792. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 308-1148. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ICR

Handwritten signature and the text "Art 3726" below it.